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RECEIVED and FILED by the  
NEW JERSEY STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS  
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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF VETERINARY MEDICAL EXAMINERS

IN THE MATTER OF	:	
	:	
	:	<u>Administrative Action</u>
<b>ANDREW DISCAFANI, D.V.M.</b>	:	
	:	
TO PRACTICE VETERINARY MEDICINE	:	CONSENT ORDER
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the State Board of Veterinary Medical Examiners (hereinafter referred to as the "Board") following the Board's review of a consumer complaint filed by Carmelina Delasey, on or about July 21, 2003, concerning the services rendered by the respondent Andrew Discafani, D.V.M. to her then four (4) month old Bernese Mountain dog, "Rainbow" beginning June 14, 2003. In her complaint to the Board, Ms. Delasey contended that Dr. Discafani misdiagnosed Rainbow's

condition.

Ms. Delasey initially presented Rainbow to Dr. Discafani at the Hampton Animal Hospital ("Hospital") in Hampton, New Jersey, on June 14, 2003. According to Ms. Delasey, Rainbow was outside that morning when the owner heard Rainbow "scream." When she went to see what had happened, the dog was, according to the owner's complaint, unable to put any weight on her hind legs.

Following his examination of Rainbow, the respondent tested for and ultimately treated the dog for Lyme's disease. He also administered a cortisone shot to the dog and dispensed Deramaxx for the pain. The owner maintains that she was told an x-ray was not necessary by the respondent when she requested it be taken.

Rainbow was again presented to Dr. Discafani on June 18, 2006. According to the owner, she returned to his office to cancel Rainbow's scheduled spay appointment and to inform the respondent that the dog showed little improvement. Dr. Discafani, after his brief re-check examination of Rainbow, advised the owner of a list of differential diagnoses, including the possibility of diskospondylitis. Ms. Delasey maintains that she again asked that an x-ray be performed and was told by the respondent that it would be better to perform the test during the spay procedure while Rainbow was anesthetized.

In his medical records for June 18<sup>th</sup>, Dr. Discafani noted that the dog seemed to have back pain as indicated by the

hunching in her back and that he suspected diskospondylitis. He dispensed clindamycin and indicated that the owner should bring the dog in one week for the spay procedure and at that time, if no improvement was seen, he would perform the lateral x-ray of the dog's spine during the surgical procedure.

After becoming dissatisfied with the treatment rendered by the respondent, the owner took Rainbow to see a second veterinarian, Dr. Philip A. Roerig of Glen Manor Veterinary in Glen Manor, New Jersey, on June 19, 2003. According to the owner, Dr. Roerig examined Rainbow, took two x-rays of the dog and referred her to Gregory M. Zolton, V.M.D., an orthopedic surgeon at Round Valley Veterinary Hospital in Lebanon, New Jersey.

The owner provided Dr. Zolton with the dog's x-rays taken by Dr. Roerig on June 20, 2003. According to Dr. Zolton's medical records for Rainbow, the dog presented with "bilateral tibial tuberocity avulsions and very high riding patellas with bilateral laxity to the patellar tendons." He also noted that she walked in a squatted position. Dr. Zolton performed bilateral surgery to correct her hind legs on July 13, 2003.

In correspondence dated August 12, 2003, Dr. Discafani provided the Board with a written response to the owner's complaint. He noted that Rainbow presented to him on June 14, 2003 after suddenly being unable to walk on her back legs after

being outside that day. He noted that the dog was able to stand but ". . . very minimally on rear limbs . . ." He further noted that "Rainbow's symptoms were not characteristic of any one specific disorder." The respondent maintains that he waited to perform the x-rays until a later date due to the fact that it

. . . required general anesthesia and that it would be more financially practical since the chances of injuring both rear limbs at the exact same time with no history of trauma was less likely than other more common conditions.

Dr. Discafani also indicated that he felt it was necessary to treat for a potential diagnosis of Lyme's disease, despite the negative result on the blood work, because the negative result alone does not rule out the disease and especially given the dog's pain, temperature, and history of tick exposure.

Dr. Discafani further advised in his response that when the dog was presented to him again on June 18, 2003, he again noted its low ambulation. Specifically, the respondent noted some improvement in the dog although the dog appeared to have spinal pain as indicated by her hunched back. He maintains that he discussed the possibility of her having diskospondylitis but that radiological changes in the spine do not always show in early stages of the disorder and he dispensed antibiotics to rule out the disease. Again regarding the x-rays, the respondent advised that during the visit, he expressed to the owner that it would be best to perform the x-ray when the dog was under anesthesia

during her spay procedure. However, he conceded, that he would perform the x-rays sooner if the dog's condition did not improve.

The Board, having reviewed the entire record in this matter, finds that Dr. Discafani mismanaged Rainbow's case in that he failed to properly diagnose Rainbow's condition on two occasions, namely June 14<sup>th</sup> and 18<sup>th</sup>, when she presented with low ambulation or to take action to obtain a specialist consultation considering the animal's low ambulation on both visits. These facts form the basis for disciplinary action pursuant to N.J.S.A. 45:1-21(d) for repeated acts of negligence and misdiagnosis, in that he: 1) failed to properly diagnose the dog's condition on two separate occasions, June 14, 2003 and June 18, 2003; and 2) failed to refer the dog to an orthopedic specialist. The Board concludes that this conduct constitutes a basis for disciplinary action against Dr. Discafani.

It appearing that the respondent desires to resolve this matter without admissions, and any and all liability and wrongdoing being expressly denied, and without recourse to further proceedings; and the Board having been satisfied that the within resolution adequately protects the public health; safety and welfare; and for good cause shown:

**ACCORDINGLY, IT IS ON THIS** 26<sup>th</sup> **day of**

**SEPTEMBER 2006, ORDERED that:**

1. The respondent, Andrew Discafani, D.V.M., is hereby

formally reprimanded for engaging in repeated acts of negligence, contrary to N.J.S.A. 45:1-21(d), for 1) failing to properly diagnose the dog's condition on two separate occasions, June 14, 2003 and June 18, 2003; and 2) failing to timely refer the dog to an orthopedic specialist.

2. Dr. Discafani shall cease and desist from further violations of N.J.S.A. 45:1-21(d).

3. Dr. Discafani is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22(b), in the amount of **\$2,000.00** for engaging in repeated acts of negligence and misdiagnosis in violation of N.J.S.A. 45:1-21(d). Payment for the civil penalty shall be submitted no later than ten (10) days from the entry of this Consent Order, by certified check or money order, made payable to the State Board of Veterinary Medical Examiners and shall be forwarded to Leslie G. Aronson, Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45020, Newark, New Jersey 07101. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

4. Failure to comply with any of the provisions of this Consent Order or remit any and all payments required by this Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD  
MARK W. LOGAN, V.M.D.  
President

I have read and understand the within  
Consent Order and agree to be bound  
by its terms. Consent is hereby given  
to the Board to enter this Order.

Andrew Discafani DVM  
ANDREW DISCAFANI, D.V.M.

DATE: September 26, 2006

Consent as to form and entry:

Michael Discafani Esquire  
MICHAEL DISCAFANI, ESQUIRE  
Attorney for the Respondent

DATE: September 26, 2006